

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

BRIAN BLANDING,)	C.A. NO.: 3:09-cv-00758-JFA
)	
Plaintiff,)	
)	
-versus-)	ORDER
)	
FKI LOGISTEX, INC. and W & H)	
SYSTEMS, INC.,)	
)	
Defendants.)	
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FKI LOGISTEX, INC.,)	
)	
Third-Party Plaintiff,)	
)	
-versus-)	
)	
RIPLEY METALWORKS, LTD.,)	
)	
Third-Party Defendant.)	
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FKI Logistex, Inc. (“FKI”) has remaining only a claim of equitable indemnity against Ripley Metalworks, LTD (“Ripley”). See Order dated February 11, 2011 [Doc. #52]. Ripley has not demanded a jury trial. While FKI demanded a jury trial as to it’s third party claims, it now agrees that it is not entitled to a jury trial as to the remaining equitable indemnity cause of action because in cases involving only claims for equitable relief, there is no right to a trial by jury. Tull v. United States, 481 U.S. 412, 417 (1987)(under federal law there is no right to jury trial on an equitable claim).

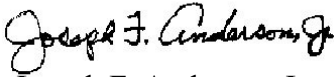
The third party complaint presents solely a claim for equitable indemnity against Ripley. This Court has previously recognized the equitable nature of the relief sought/available under a claim

of equitable indemnity by noting, “there is no right to indemnification at common law. . . . [i]ndemnity is an equitable remedy.” South Carolina National Bank v. Stone, 749 F. Supp. 1419, 1430 (D.S.C. 1990) (J. Anderson). Accordingly, FKI is not entitled to a jury trial as to this portion of the claim. Both FKI and Ripley agree that the jury demand against Ripley contained in FKI’s Answer and Third-Party Complaint [Doc. #36] should be struck.

The Court has considered this matter and hereby **STRIKES** the jury demand of FKI on it’s equitable indemnity claim against Ripley.

IT IS SO ORDERED.

March 3, 2011
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge

WE CONSENT:

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